REMARKS

I. Introduction

In response to the pending Office Action, Applicants have amended claims 1, 17 and 19 to further clarify the subject matter of the present disclosure and to overcome the § 112 rejections. Support for the amendments may be found, for example, on pages 5-6 and 13-15 of the specification. No new matter has been added.

Applicants appreciate the granting of an interview with the Examiner on July 16, 2009. During the interview, Applicants discussed the § 112 rejections and possible amendments to the claims.

For the reasons set forth below, Applicants respectfully submit that all pending claims are patentable over the cited prior art.

II. The Rejection Of Claims 1-3, 17 and 19 Under 35 U.S.C. § 112

Claims 1-3, 17 and 19 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner alleges that the claims as being incomplete for omitting essential elements.

In response to the rejection and to the discussion during the interview, Applicants have amended the claims to clarify the steps involved in the present disclosure. Applicants would point out that the steps have been quantified into 3 steps. Applicants would direct the Examiner to page 13 of the specification which states that a market participants underlying position z at a prospective time T may be met by taking positions x in the spot market at time T, and taking positions y with price risk instruments such that $\mathbf{z = x + Py}$, where **P** is the available market of

price instruments. As is shown in the equations on pages 13-14 of the specification, all spatial risk involved in the markets is associated with the uncertainty in the congestion price λ. As such, the risk involved in an electricity market may be managed by choosing a portfolio y of price risk instruments such that the congestion price risk λ becomes 0. This is shown in equation (9) on page 14.

Accordingly, Applicants summarize that step (1) obtains the spot market positions, step (2) obtains the price risk instruments, and step (3) sets the congestion price risk to 0, via the above mentioned equations. Moreover, the claims have also been rewritten to remove the optional language. Accordingly, Applicants submit that the claims are now definite and concise. Withdrawal of the § 112 rejections is respectfully requested.

III. The Rejection Of Claims 1-3, 17 and 19-21 Under 35 U.S.C. § 103

Claims 1-3, 17, 19-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stoft ("Pricing Scarce Transmission In a Bilateral Market", January 31, 1998) in view of Stoft, et al. ("Primer on Electricity Futures and Other Derivatives", January 1998). Applicants respectfully traverse this rejection for at least the following reasons.

With regard to the present disclosure, claim 1 recites a method of using a computer for managing risk in a market related to electricity delivered over a network comprised of tradable network locations, comprising the steps of...(2) a computer creating a portfolio of future positions which includes: selecting a portfolio of price risk instruments which represent distribution factors describing the physics of the flow of electricity in the network and the available market of price instruments; and (3) a computer producing a combination of price risk instruments for the market in which an underlying position in the market is determined from: (a)

the spot locational prices determined in step (1), and (b) the portfolio of future positions created in step (2), such that the difference between the underlying position in the market with respect to the distribution factors and the portfolio of future positions with respect to the distribution factors is calculated such that at least one amount of each of the price risk instruments are proportioned, thereby interlocking eventual locational prices and reducing an effect of the congestion prices for the plurality of congestible transmission lines on the locational prices of the electricity.

Similarly, claim 17 recites a computer-readable medium bearing instructions for managing risk in a market related to electricity delivered over a network; and claim 19 recites a portfolio generating system and portfolio, having the same steps recited above in claim 1.

As was admitted by the Examiner in the July 16, 2009 interview, Stoft fails to disclose the limitations of claims 1, 17 and 19. Stoft fails to disclose a step of creating a portfolio of future positions which includes selecting a portfolio of price risk instruments which represent distribution factors describing the physics of the flow of electricity in the network and the available market of price instruments.

As stated in a previous response, Stoft only refers to congestion pricing describe the theory in the *spot* electricity market (see, Abstract of Stoft). One aspect of one of the present embodiments is the assumption that the spot pricing in electricity markets is efficient (and this is well-known in the art), but that the forward or futures markets may not be efficient. As such, this embodiment describes techniques by which one can either profitably arbitrage such inefficiencies (if they exist) or partially or completely hedge their exposure to congestion risk in forward or futures markets by creating a portfolio of future positions.

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In contrast, Stoft is very limited in that it holds true for a certain pricing regime only, Chao-Peck pricing, whereas the present embodiment does not depend on Chao-Peck pricing. As such, Stoft fails to disclose the limitation of claims 1 and 17 of creating a portfolio of future positions which includes selecting a portfolio of price risk instruments which represent distribution factors describing the physics of the flow of electricity in the network and the available market of price instruments; and the limitation of claim 19 of generating a portfolio having a plurality of price risk instruments wherein **z** represents a market participant's underlying position in the market at a prospective time T.

Accordingly, it is submitted that Stoft and Stoft et al., alone or in combination, do not render claims 1, 17 and 19 or any pending claims dependent thereon, obvious. As such, Applicants respectfully request that the § 103 rejection of claims 1, 17 and 19 be withdrawn.

IV. All Dependent Claims Are Allowable Because The Independent Claim From Which They Depend Is Allowable

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claims 1, 17 and 19 are patentable for the reasons set forth above, it is respectfully submitted that all pending dependent claims are also in condition for allowance.

V. Conclusion

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication of which is respectfully solicited.

Application No.: 09/522,709

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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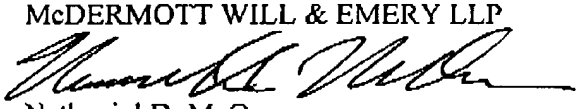

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